

1 Ross C. Goodman, Esq.
2 Nevada Bar No. 7722
3 GOODMAN LAW GROUP, P.C.
4 520 S. Fourth Street, Second Floor
5 Las Vegas, Nevada 89101
6 Telephone: (702) 383-5088
7 Facsimile: (702) 385-5088
8 Email: ross@rosscgoodman.com

9
10 Attorney for Defendant
11 BENJAMIN WOOD

12
13
14 UNITED STATES DISTRICT COURT
15 DISTRICT OF NEVADA

16 NICOLE GREENE, an individual,
17 Plaintiff,

18 vs.

19 BENJAMIN WOOD, an individual; and
20 FRONTIER AIRLINES, INC., a Foreign
21 Corporation; DOES 1 through 20,
22 inclusive; ROE CORPORATIONS, 1
23 through 20, inclusive;

24 Defendants.

25 Case No. 2:20-cv-00818-JAD-NJK

26 **INDEX OF EXHIBITS**

27 Exhibit 1	Text Messages
28 Exhibit 2	Frontier Airlines Flight Itinerary
29 Exhibit 3	Rule 11 Letter dated May 8, 2020

Exhibit 1

TEXT MESSAGES

Exhibit 1



4G

LTE

40%

14:12

Nicole Greene

+1 805-345-6064



00:44

I'm here, checking in

Okay, I'm gonna start heading
down to the lobby

00:46

00:46

Down... Where are you?



Still in the parking garage

00:47

00:49

K. I'm heading to room 1736.
I'm gonna change. Meet me
there instead

Okay, I'm on my way up

00:53

Did you have fun last night?
Super cool seeing you

11:07

I wish I'd had time to walk you
to your car...Aww, you're so sweet. Yeah,
I always have a great time
hanging outwith you. I wish we could
take things further, but I'll
see what I

Enter message



SEND



4G 39% 14:12

Nicole Greene

+1 805-345-6064

see what I



can do about it 😊

11:21

Friday, February 2, 2018

Hey, how's it going?

13:16

Good, you?

13:17

Pretty good. Just getting
ready for work

13:22

Do you even want to be
friends with me? Or are you
just using me until a better
girl comes along?

14:07

I'm at work right now, but
where did that come from?

Do you feel used?

14:16

Alright, well I'm not going
to bother you at work. But
yes, I do

14:27

Ok, then I sincerely apologize

for making you feel that way



Enter message



SEND

Nicole Greene

+1 805-345-6064

see what I

can do about it 😊

11:21

Friday, February 2, 2018

Hey, how's it going?

13:16

Good, you?

13:17

Pretty good. Just getting ready for work

13:22

Do you even want to be friends with me? Or are you just using me until a better girl comes along?

14:07

I'm at work right now, but where did that come from?

14:16

Do you feel used?

Alright, well I'm not going to bother you at work. But yes, I do

14:27

Ok, then I sincerely apologize



Enter message



SEND



4G



39%



14:13

Nicole Greene

+1 805-345-6064



Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.

14:33



What is it that you're looking for?

14:34

I am now interested in friendship. Or if you'd rather avoid me I understand

14:40



No, I don't want to avoid you. I want friendship too

15:15

Thursday, February 8, 2018



Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and her baby?

14:38

14:40

No worries. My sister is great and very happy being a mom



That's good to hear. So I went to an OBGYN this morning thinking I would get some an-



Enter message



SEND

**Nicole Greene**

+1 805-345-6064

That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged 😞

14:46

Normal is good

15:34



Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems

15:38



Putting it bluntly, my hymen is already torn

15:40



If you want to try again, maybe we can use alcohol

19:50

Nicole, I want to remain just friends.

20:30



Benjamin, you've told me multiple times that you've slept with girls you considered "just friends"

20:31

Sunday, February 11, 2018



Enter message



SEND



4G

39% 14:13

Nicole Greene

+1 805-345-6064

considered just friends



20:31

Sunday, February 11, 2018



Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And



VIEW ALL



11:07

21:28

I think that's a pretty accurate assessment. I was a bit put off by the whole thing, but I am neither angry nor upset.

After reflecting on it, I don't think the way things were is good for you at this point in your life, and maybe not for me either. You are an awesome chick, and I respect you greatly. I think it's probably normal and



Enter message



SEND



Nicole Greene
+1 805-345-6064



Sun, Feb 11, 2018 11:07

Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And when you told me that night in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.



Nicole Greene

+1 805-345-6064

During your vacation:



22:04

Hanging out with the woman
and some friends

22:06

Thursday, June 28, 2018



I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign



VIEW ALL



For the longest time, I felt so guilty, because once you realized we weren't going to be able to have sex, you started distancing yourself from me and I felt like a failure. Keep in mind, I'm 13 years younger than you and this was my first time in any sort of "relationship" like this. I know I made



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



Thu, Jun 28, 2018 13:40

I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign blame, but I know for a fact that this situation has a lot to do with it. I felt ashamed that we weren't able to have sex because I felt like that was all you ever wanted and I was letting you down. I felt even more ashamed for developing feelings for you. I did everything I could to try to make this right, including going to a gynecologist, going on birth control, and encouraging you to get tested for STDs.

Exhibit 2

FRONTIER AIRLINES
FLIGHT ITINERARY

Exhibit 2

January Schedule

3 Benjamin Wood (425428)

Last Updated Feb 5, 2018 17:18:12 MST

Schedule Options:

SU 14 578 SLC-DEN 1134 1249 0115 0404
D-END: 1304L T.A.F.B.: 5240 TRIP REPT: 0023

Total: 1245 0000

Crew:
FO 425428 Wood, Benjamin

D3206D : 19JAN			ONLY ON FRI			BSE REPT: 1003L			Operates: Jan 12-Jan 19		
Base/Equip:	DEN/319	FO01	DEPL	ARRL	BLKT	GRNT	OA	TBLK	TDHD	TCR	
DY DD DH C	FLTN0 DPS-ARS		1003	1003	0000	0155				0754	
FR 19 N	NTR DEN-DEN		1158	1257	0159	0231					
FR 19 *	777 DEN-LAS		1528	2016	0248	0047					
FR 19	1144 LAS-SAT		2103	2144	0241						
FR 19	1145 SAT-LAS										
D-END: 2159L REPT: 0942L											
SA 20 1686 LAS-BNA		1025	1604	0339	0037						
SA 20 *	1686 BNA-MCO		1641	1942	0201	0110					
SA 20	1616 MCO-CVG		2052	2252	0200						
D-END: 2307L REPT: 1138L											
SU 21 649 CVG-DEN		1245	1355	0310	0305						
SU 21 N DUT DEN-DEN		1790	1907	0000							
D-END: 1907L T.A.F.B.: 5704											

Crew:
FO 425428 Wood, Benjamin

PAY : 21JAN			Activity Start Date			Time End Date			Time Credit		
PAY	21JAN	20:00	23JAN	07:11	0339						

D3128 : 26JAN			MON FRI SAT			BSE REPT: 0649L			Operates: Jan 8-Jan 27		
Base/Equip:	DEN/319	CA01FO01	DEPL	ARRL	BLKT	GRNT	OA	TBLK	TDHD	TCR	
DY DD DH C	FLTN0 DPS-ARS		0744	0928	0244	0056				0733	
FR 26	657 DEN-SFO		1024	1742	0418						
FR 26	1532 SFO-ATL										
D-END: 1757L REPT: 0730L											
SA 27 *	429 ATL-DEN		0808	0925	0317	0201	Westin			(404)762-7676	
SA 27	546 DEN-DCA		1126	1627	0301					0703	
D-END: 1642L REPT: 0615L											
SU 28 543 DCA-DEN		0655	0928	0433							
D-END: 0943L T.A.F.B.: 5054											

Crew:
CA 403858 Smith, Tom FO 425428 Wood, Benjamin

Total: 1753 0000

February Schedule

Benjamin Wood(425428)

February Schedule

D3112A : 02FEB ONLY ON FRI BSE REPT: 0530L Operates: Feb 2 Only

D3201 : 09FEB	SUN TUE FRI	BSE REPT: 0824L	Operates: Feb 9-Feb 25
Base/Equip: DEN/319 CA01F001		EXCEPT ON Feb 16, Feb 18, Feb 20	
DYDDDHCFCLTNODPS-AARS	DEPL ARRRL BLKLT GRNTOA	TBLKTDHD	TCRD TDUTY/FDISPLAYOVER
FR 09	1158	1158	
FR 09	1158	1158	
FR 09	1158	1158	
D-END: 2050L REPT: 1003L			
SA 10	1561	ATL-SLC 1055	Westin
SA 10	1560	SLC-ATL 1351	Westin
D-END: 1941L REPT: 0730L			
SU 11	429	ATL-DEN 0855	Westin
D-END: 1025L	T.A.F.B.: 5001		
		Total: 1830	0000

Crew:	CA 401399 Schmidt, Keith	FO 425428 Wood, Benjamin	
D3520 : 15FEB	ONLY ON THU	BSE REPT: 1320L	Operates: Feb 15-Feb 22
Base/Equip: DEN/319 CA01FO01			
D DPS-O	DPS-ARS	DEPL ARRL BLKT GRNT O	TBL TDH
DDDHCO	FLTN	A	K D
T 15	462	DEN-MSP 1451	D
H		1724 0133	DP
D-END: 1739L REPT: 0615L		Best Western Plus	(952)854-8200
FR16 *	1236	MSP-MSP 0651	0028 0325
FR16	1236	MSH-TPA 1044	0256 0054
FR16	1211	TPA-MCI 1534	0243 0043
FR16 DH	1214	MCI-TPA 1800	0118
D-END: 2148L REPT: 1626L		0607 0118	0800 1433/1102 TPA 1838
S 17	1879	TPA-COS 1704	0357 0047
A			(813)223-2222

D3520 : 15FEB ONLY ON THU BSE REPT: 1320L
Base/Envir: DEN/310 CA/10001
Operates: Feb 15-Feb 22

Base Equip. DEN 1250/1000
 D DDDHHC Y T H
 FLTN DPS-ARS DEPL ARR BLKT GRNT^O
 0 A
 1451 1724 0133
 462 DEN-MSP 1451 1724 0133
 D-END: 1739L REPT: 0615L
 Best Western Plus (952)854-5200
 TBL TDH TCR TDUTY/F LAYOVE
 K D D D P R
 0158 0319/0304 MSP 1236

FR16	*	1236	MSP-MSP	0651	0719	0028	0325
FR16		1236	MSP-TPA	1044	1440	0256	0054
FR16		1211	TPA-MCI	1534	1717	0243	0043
FR16	DH	1214	MCI-TPA	1800	2133	0118	
						0607 0118	
						0800 1433/1102	TPA 18

S 17 1879 TPA-COS 1704 1901 0357 0047
A D-END: 2148L REPT: 1626L Sheraton
(813)223-2244

Schedule Options:

▶

S	17	1879	COS-PHX	1948	2154	0206	0603	0606 0743/0728 PHX 2103
A				D-END: 2209L	REPT: 1912L			
S	18	756	PHX-DEN	2207	2337	0130	Graduate Tempe Hotel	(480)968-1877
U						0130		0157 0440/0425
				D-END: 2352L	T.A.F.B.: 8232	DHD: 0118	TRIP	
				RIG: 0400				
						Total	1513 0118	2201 3015/2559
						:		

Crew:
CA 406525 Nolia, Patrick FO 425428 Wood, Benjamin

Sick : 23FEB	Activity	Start Date	Start Time	End Date	End Time	Credit
Sick	23FEB	10:53	25FEB	22:50	1929	

Exhibit 3

RULE 11 LETTER DATED MAY 8, 2020

Exhibit 3



May 8, 2020

Via Electronic Mail and U.S. First Class Mail

PATRICK KANG, ESQ.
Nevada Bar No. 010381
KANG & ASSOCIATES, PLLC
6480 West Spring Mountain Road
Las Vegas, Nevada 89146
pkang@acelawgroup.com.

Re: *Nicole Greene v. Benjamin Wood, et al.*
Case No. 2:20-cv-00818-JAD-NJK

Dear Mr. Kang:

This letter serves as a demand to dismiss the causes of action against Mr. Wood filed on January 31, 2020 in violation of the 2-year statute of limitations and Federal Rules of Civil Procedure 11. Under FRCP 11, a court may impose sanctions against a party or attorney when a pleading, written motion, or other paper is (1) filed for an improper purpose; (2) includes claims that are not warranted under existing law or a nonfrivolous argument for extension of the law; or (3) contains factual allegations lacking in evidentiary support.

The central claim that gives rise to the causes of action against Mr. Wood is premised on a “text” describing the parties meeting for dinner in “early” February in Las Vegas at the Downtown Grand Hotel. *See* Compl. §§11-26. The reference to “early” February on the face of the complaint is significant because it conveniently places the alleged misconduct just within the 2-year statute of limitations. However, the text message describing the meeting in Las Vegas at the Grand was sent on January 19-20, 2018. *See* Text Messages.

Specifically, Ms. Greene confirms in the early morning of January 20, 2020 that she is going to Mr. Wood’s hotel room:

BW: K. I’m heading to room 1736. I’m gonna change. Meet me there instead

Patrick Kang, Esq.
May 8, 2020
Page 2

NG: Okay, I'm on my way up

Notably, Ms. Greene acknowledges later that day that she had a “great time” as follows:

BW: Did you have fun last night? I wish Id had time to walk you to your car . . .

NG: Aww, you're so sweet. Yeah, I always have a great time hanging out with you. I wish we could talk things further, but I'll see what I can do about it.

There is no question that the Las Vegas meeting referenced in the Complaint occurred on January 20, 2020 making the filing of the Complaint on January 31, 2020 outside of the 2-year statute of limitations. The Frontier Airlines Flight Schedules confirm Mr. Wood did not return to Las Vegas in January or February. Your allegations that Mr. Wood committed torts in early February 2018 is baseless since neither party was in Las Vegas after mid-January 2018.

Please be advised that Mr. Wood will seek sanctions jointly from your firm and Ms. Greene if the causes of action are not dismissed within 21 days. *See Cervantes Orchards & Vineyards, LLC v. Deere & Co.*, 731 F. App'x 570, 573 (9th Cir. 2017) (affirming district court's imposition of Rule 11 sanctions and noting that claims were frivolous where they “were plainly barred by applicable statutes of limitations.”).

Instead, the texts in “early” February 2018 make clear that Ms. Greene consented to the night in Las Vegas and wanted more than just friendship. On February 2, 2018, Plaintiff was asking about the status of their relationship:

NG: Do you even want to be friends with me? Or are you just using me until a better girl comes along?

BW: I'm at work right now, but where did that come from? Do you feel used?

NG: Alright, well I'm not going to bother you at work. But yes, I do

BW: Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.

Patrick Kang, Esq.
May 8, 2020
Page 3

NG: What is it that you're looking for?

BW: I am now interested in friendship or if you rather avoid me I understand

NG: No, I don't want to avoid you. I want friendship too

Indeed, Plaintiff on February 9, 2018 is asking Mr. Wood to meet again for sex:

NG: Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and baby?

BW: No worries. My sister is great and very happy being a mom

NG: That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged

BW: Normal is good

NG Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems. *Putting it bluntly, my hymen is already torn. If you want to try again, maybe we can use alcohol.*

Notwithstanding access to these text messages, you falsely allege Mr. Wood was the one who suggested "alcohol" and deceptively go further by claiming Mr. Wood was "callous" by suggesting she needed to "break her hymen." *See Compl. §§21, 24.* Your attribution to Mr. Wood when in reality Ms. Greene said it is reckless and egregious conduct.

These text messages make clear that the mid-January night in Las Vegas was consensual and did not result in an assault, battery, or intentional infliction of emotional distress. On February 11, 2018, Ms. Greene explains that she was disappointed when Mr. Wood told her "that night" in Las Vegas that he only wanted to be friends:

Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And when you told me *that night*

Patrick Kang, Esq.
May 8, 2020
Page 4

in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. *I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.*

Many months later, Ms. Greene further reveals on June 28, 2018 that she was in "bad place", "felt ashamed" for "developing feelings" and that she felt like a failure "once *you realized we weren't going to be able to have sex, you started distancing yourself from me.*"

These texts demonstrate a consensual meeting in Las Vegas in mid-January 2018. Contrary to the central allegation in the Complaint, there are NO texts that describe the parties met in Las Vegas anytime thereafter and especially not in "early" February 2018. In addition, Mr. Wood was not in Las Vegas in February 2018 as evidenced by his flight itinerary.

A review of Ms. Greene's text messages establish that the substantive claims are not well-grounded in fact and are frivolous. While not defined under Rule 11, the word "frivolous" is used to "denote a filing that is both baseless and made without a reasonable and competent inquiry." *Holgate v. Baldwin*, 425 F.3d 671, 676 (9th Cir. 2005). Ms. Greene knew full well that this information was baseless. Specifically, she knew the meeting in Las Vegas occurred in mid-January and not early February and that the relationship was consensual. However, you did not review these text messages and failed in your Rule 11 obligation to conduct a reasonable and competent inquiry into the factual allegations. In addition to being frivolous, the Complaint was filed for the improper purpose of continuing to harass Mr. Wood after both Frontier Airlines and the Metropolitan Police Department founds these allegations lacking.

The purpose of Rule 11 sanctions is to "reduce frivolous claims, defenses or motions, and to deter costly meritless maneuvers." *Massengale v. Ray*, 267 F.3d 1298, 1302 (11th Cir. 2001); *see also Salman v. State of Nevada Comm'n on Judicial Discipline*, 104 F. Supp. 2d 1262, 1270 (D. Nev. 2000) ("The main objective of Rule 11 is to deter baseless filings and curb litigation abuses."). Thus, Rule 11 further provides that "[i]f, after notice and a reasonable opportunity to respond, the court determine that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation." FRCP 11.

Based on the foregoing, there is no dispute the Complaint was filed for an "improper purpose" and that you failed to make a reasonable and competent inquiry into the facts before filing the Complaint. Pursuant to FRCP 11(c)(2), this letter serves as notice that Mr. Wood will

Patrick Kang, Esq.
May 8, 2020
Page 5

file a Motion to Dismiss and a Motion for Sanctions on June 1, 2020 if the Complaint is not dismissed within 21 days.

Thank you for your attention to this matter. Feel free to contact me directly should you have questions or concerns.

Yours truly,

Goodman Law Group, P.C



Ross C. Goodman, Esq.

RCG/tj
Enclosures as stated.

1 Ross C. Goodman, Esq.
2 Nevada Bar No. 7722
3 GOODMAN LAW GROUP, P.C.
4 520 S. Fourth Street, Second Floor
5 Las Vegas, Nevada 89101
Telephone: (702) 383-5088
Facsimile: (702) 385-5088
Email: ross@rosscgoodman.com

6 Attorney for Defendant
BENJAMIN WOOD

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

11 NICOLE GREENE, an individual,
12 Plaintiff

vs.

14 BENJAMIN WOOD, an individual; and
15 FRONTIER AIRLINES, INC., a Foreign
16 Corporation; DOES 1 through 20,
inclusive; ROE CORPORATIONS, 1
through 20, inclusive:

Defendants.

Case No. 2:20-cv-00818-JAD-NJK

**DEFENDANT WOOD'S MOTION
FOR RULE 11 SANCTIONS**

Defendant BENJAMIN WOOD (“Defendant”), by and through undersigned counsel, files this Motion for Rule 11 sanctions against Plaintiff NICOLE GREENE (“Plaintiff”) and her Firm.

1

111

1 This motion is based upon the following memorandum of points and authorities, the
2 pleadings and papers on file, the exhibits, and any oral argument of counsel to be made at the time
3 of the hearing.

4 Dated this ____ day of May 2020.

5 Respectfully submitted,

6 GOODMAN LAW GROUP, P.C.

7 _____
8 /s/ *Ross C. Goodman, Esq.*
9 ROSS C. GOODMAN, ESQ.
10 Nevada Bar No. 7722
11 520 S. Fourth Street, Second Floor
12 Las Vegas, Nevada 89101

13 Attorney for Defendant
14 BENJAMIN WOOD

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

1 The parties met while working for Frontier Airlines and had a consensual overnight stay at
2 the crew hotel in Las Vegas, Nevada on January 20, 2018. The next morning Plaintiff texts “Aww,
3 you’re so sweet. Yeah, I always have a great time hanging out with you. I wish we could talk
4 things further, but I’ll see what I can do about it.” The parties did not physically see each other
5 after that night in Las Vegas in mid-January 2018. Plaintiff laments to Defendant “You were my
6 first everything, so naturally, I wanted more than just friendship. And when you told me ***that night***
7 ***in Las Vegas*** that you didn’t feel the same way, I was disappointed and upset.”

8 The flight itinerary shows that Defendant did not fly back into Las Vegas after that night
9 through February 2018 and the text messages in February proves that they were not with each
10 other or in Las Vegas. Nonetheless, Plaintiff and counsel ignored these text messages and filed
11 the Complaint on January 31, 2018 and misrepresented the date of the Las Vegas trip as “early”

1 February to avoid the two-year statute of limitations.
 2

3 It is evident that this action was designed solely to harass, cause embarrassment and danger
 4 to Defendant's reputation. The Complaint is factually baseless, time-barred and filed for an
 5 improper purpose warranting Rule 11 sanctions and attorney's fees to remedy this abuse of the
 6 legal system.
 7

8 **II.**
 9 **STATEMENT OF FACTS**
 10

11 Plaintiff filed this lawsuit alleging three causes of action against Defendant Benjamin
 12 Wood for: (1) assault; (2) battery; and (3) intentional infliction of emotional distress ("IIED").
 13 Plaintiff alleges that the claims giving rise to the action resulted from an overnight stay at a hotel
 14 in Las Vegas Nevada. *See Compl. §§11-26.* Plaintiff is a flight attendant and Defendant is a pilot
 15 for Frontier Airlines. *See Compl. §§10-11.* They were both in Las Vegas on an "overnight stay"
 16 at the Grand Hotel in "early" February. *See Compl. §§11-12.* Defendant went to Plaintiff's hotel
 17 room. *See Compl. §§16.*

18 Contrary to these allegations, the text message describing the meeting in Las Vegas at the
 19 Grand Hotel was sent on January 19-20, 2018 and not in "early" February. *See Text Messages*
 20 attached as Exhibit 1. Plaintiff acknowledged that she a "great time" after leaving Defendant's
 21 hotel room:

22 BW: K. I'm heading to room 1736. I'm gonna change. Meet me
 23 there instead

24 NG: Okay, I'm on my way up

25 BW: Did you have fun last night? I wish Id had time to walk you to
 26 your car . . .

27 NG: Aww, you're so sweet. Yeah, I always have a great time
 28 hanging out with you. I wish we could talk things further, but I'll
 see what I can do about it.

1 See Exh. 1.

2 Further, the flight itinerary shows that Defendant did not fly back into Las Vegas after that
3 mid-January night through February 2018. *See* Frontier Airlines Flight Itinerary attached as
4 Exhibit 2. and the text messages in February proves that they were not with each other or in Las
5 Vegas. It is no surprise that the text messages in “early” February also confirm the parties were
6 not in Las Vegas. On February 2, 2018, the parties have this exchange:

7 NG: “Do you even want to be friends with me? Or are you just using
8 me until a better girl comes along?

9 BW: I’m at work right now, but where did that come from? Do you
10 feel used?

11 NG: Alright, well I’m not going to bother you at work. But yes, I
12 do

13 BW: Ok, then I sincerely apologize for making you feel that way. I
14 think what you are looking for is not the same as what I am looking
15 for.

16 NG: What is it that you’re looking for?

17 BW: I am now interested in friendship or if you rather avoid me I
18 understand

19 NG: No, I don’t want to avoid you. I want friendship too.

20 See Exh. 1.

21 In stark contrast to non-consensual contact, Plaintiff was seeking to be more than just
22 friends. In addition, Plaintiff one week later is proposing sex as reflected in the following text
23 message from February 9, 2018:

24 NG: Hey, sorry I got upset the other day. I really hope you’re doing
25 well. How’s your sister and baby?

26 BW: No worries. My sister is great and very happy being a mom

1 NG: That's good to hear. So I went to an OBGYN this morning
2 thinking I would get some answers, but he said everything seemed
3 normal. So now I'm really discouraged

4 BW: Normal is good

5 NG Yeah, that's true. But I was hoping he could give me answers as
6 to why you and I keep having problems. *Putting it bluntly, my*
hymen is already torn. If you want to try again, maybe we can use
alcohol.

7 Despite Plaintiff referencing "hymen" and "alcohol", Plaintiff falsely alleges that
8 Defendant suggested that Defendant drink alcohol and "callously" responded that he needed to
9 "break her hymen." *See* Compl. §§21, 24.

10 On February 11, 2018, Plaintiff laments her relationship with Defendant is only as friends
11 and nothing more involved:

12 Correct me if I'm wrong, but I feel like you're upset because *I*
13 *accused you of using me and I'm really, really sorry because I feel*
14 *like I ruined everything.* I just want you to understand things from
15 my perspective. *You were my first everything, so naturally, I*
16 *wanted more than just friendship.* And when you told me *that night*
17 in Las Vegas that you didn't feel the same way, I was disappointed
18 and upset. But I've come to terms with how you feel and I really
19 want things to go back to normal because I don't like the way things
20 are right now. *I totally understand that you don't want to be in a*
21 *relationship and I respect that. I just can't handle you being upset*
22 *with me and not responding to me because you are so special to*
23 *me.*

24 Many months later, Plaintiff further reveals on June 28, 2018 that she was in "bad place",
25 "felt ashamed" for "developing feelings" and that she felt like a failure "once *you realized we*
26 *weren't going to be able to have sex, you started distancing yourself from me.*"

27 Because the Complaint was time-barred and the substantive allegations false, Defendant
28 served Plaintiff's counsel with a Rule 11 letter on May 8, 2020 demanding dismissal of the
29 Complaint. Nonetheless, Plaintiff and counsel refused to dismiss the Complaint.

III. ARGUMENT

A. Legal Standard

Rule 11(b) provides, in relevant part:

By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; [and] (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

Fed. R. Civ. P. 11(b)(1)-(3).

“Rule 11 is intended to deter baseless filings in district court and imposes a duty of ‘reasonable inquiry’ so that anything filed with the court is well grounded in fact, legally tenable, and not interposed for any improper purpose.” *Islamic Shura Council of S. Cal. v. Federal Bureau of Investigation*, 757 F.3d 870, 872 (9th Cir. 2014) (per curiam) (internal quotation marks omitted). “One of the fundamental purposes of Rule 11 is to reduce frivolous claims, defenses or motions and to deter costly meritless maneuvers, [thereby] avoid[ing] delay and unnecessary expense in litigation.” *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir. 2002) (internal quotation marks omitted; first alteration added).

“Among other grounds, a district court may impose Rule 11 sanctions if a paper filed with the court is for an improper purpose, or if it is frivolous.” *G.C. & K.B. Invs., Inc. v. Wilson*, 326 F.3d 1096, 1109 (9th Cir. 2003). “Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” Fed. R. Civ.

1 P. 11(c)(1). When “a complaint is the primary focus of Rule 11 proceedings, a district court must
 2 conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually baseless
 3 from an objective perspective, and (2) if the attorney has conducted a reasonable and competent
 4 inquiry before signing and filing it.” *Holgate v. Baldwin*, 425 F.3d 671, 676 (9th Cir. 2005)
 5 (internal quotation marks omitted). “As shorthand for this test, [courts] use the word ‘frivolous’ to
 6 denote a filing that is both baseless and made without a reasonable and competent inquiry.” *Id.*
 7 (internal quotation marks and emphasis omitted). “[T]he mere existence of one non-frivolous claim
 8 in a complaint does not immunize it from Rule 11 sanctions.” *Id.* at 677 (internal quotation marks
 9 omitted).

11

B. All of Plaintiff’s Claims are Time-Barred

12 The claim for assault, battery and intentional infliction of emotional distress (“IIED”) is
 13 barred by the two-year statute of limitations.¹ *See* NRS 11.190(4)(c). Specifically, NRS
 14 11.190(4)(c) applies to “an action for libel, slander, **assault**, **battery**, false imprisonment or
 15 seduction and NRS 11.190(4)(d) applies to “an action to recover damages for **injuries to a person**
 16 or for the death of a person caused by the **wrongful act** or neglect of another.”

17

18 Further, a statute-of-limitations defense, if “apparent from the face of the complaint,” may
 19 properly be raised in a motion to dismiss. *Conerly v. Westinghouse Elec. Corp.*, 623 F.2d 117,
 20 119 (9th Cir.1980). “We accept as true all well-pleaded allegations of material fact” but are not
 21 “required to accept as true allegations that contradict exhibits attached to the Complaint or matters
 22 properly subject to judicial notice, or allegations that are merely conclusory, unwarranted
 23 deductions of fact, or unreasonable inferences.” *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992,
 24 998 (9th Cir.2010).

25

26 Plaintiff alleges that the claims giving rise to this action resulted from an overnight stay at
 27 a hotel in Las Vegas Nevada in “early” February is flatly contradicted by her text messages. The

28 ¹ The causes of action against Defendant Wood is time-barred and will be the subject of a motion to dismiss for failure
 29 to state a claim under Federal Rule of Civil Procedure 12(b)(6).

1 text messages describing the overnight stay occurred on January 19-20, 2018. Nonetheless,
 2 Plaintiff deliberately changed the date from the known mid-January timeframe to “early” February
 3 to avoid the obvious problem that the Complaint filed on January 31, 2020 was right inside of the
 4 statute of limitation expiring resulting in a baseless and frivolous filing.
 5

6 The text messages clearly show that the parties engaged in consensual contact on January
 7 20, 2018. Plaintiff’s counsel should have undertaken a reasonable inquiry to determine these
 8 claims were time-barred by the two-year statute of limitations. *See Cervantes Orchards &*
Vineyards, LLC v. Deere & Co., 731 F. App’x 570, 573 (9th Cir. 2017) (affirming district court’s
 9 imposition of Rule 11 sanctions and noting that claims were frivolous where they “were plainly
 10 barred by applicable statutes of limitations.”). Here, it cannot be disputed that the Complaint is
 11 not well grounded in fact and was made without reasonable and competent inquiry prior to filing.
 12

13 Under the circumstances, this Court should find Plaintiff’s filing of this Complaint was
 14 frivolous and filed for an improper purpose of harassing and embarrassing Defendant, thus
 15 warranting sanctions against Plaintiff and her firm jointly. *See G.C. & K.B. Investments*, 326 F.3d
 16 at 1109 (“a district court may impose Rule 11 sanctions if a paper filed with the court is for an
 17 improper purpose, or if it is frivolous”); Fed. R. Civ. P. 11(c)(1) (“Absent exceptional
 18 circumstances, a law firm must be held jointly responsible for a violation committed by its partner,
 19 associate, or employee.”).
 20
 21
 22
 23
 24
 25
 26
 27
 28

1
2
3
4
5
6
IV.

CONCLUSION

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
Based on the foregoing, Defendant requests the Court enter an order of sanctions against Plaintiff and her firm and award reasonable attorney's fees, costs and expenses incurred in filing this motion.

Dated this ____ day of May 2020.

Respectfully submitted,

GOODMAN LAW GROUP, P.C.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
/s/ Ross C. Goodman, Esq.
ROSS C. GOODMAN, ESQ.
Nevada Bar No. 7722
520 S. Fourth Street, Second Floor
Las Vegas, Nevada 89101

Attorney for Defendant
BENJAMIN WOOD

CERTIFICATE OF SERVICE

19
20
21
22
23
24
25
26
27
28
I hereby certify that on the ____ day of May 2020 I electronically filed the above and foregoing **Defendant's Motion for Rule 11 Sanctions** using the CM/ECF system which will send notice of electronic filing to all CM/ECF registrants.

19
20
21
22
23
24
25
26
27
28
/s/ Tiffanie Johannes
Employee of Goodman Law Group, P.C.

Exhibit 1

Exhibit 1

Nicole Greene

+1 805-345-6064

00:44

I'm here, checking in

Okay, I'm gonna start heading
down to the lobby

00:46

00:46

Down... Where are you?

Still in the parking garage

00:47

00:49

K. I'm heading to room 1736.
I'm gonna change. Meet me
there instead

Okay, I'm on my way up

00:53

Did you have fun last night?
Super cool seeing you

11:07

I wish I'd had time to walk you
to your car...

Aww, you're so sweet. Yeah,
I always have a great time
hanging out

with you. I wish we could
take things further, but I'll
see what I



Enter message



SEND



4G

4G

39%

39%

14:12

Nicole Greene

+1 805-345-6064

see what I

can do about it 😊

11:21

Friday, February 2, 2018

Hey, how's it going?

13:16

Good, you?

13:17

Pretty good. Just getting
ready for work

13:22

Do you even want to be
friends with me? Or are you
just using me until a better
girl comes along?

14:07

I'm at work right now, but
where did that come from?

Do you feel used?

14:16

Alright, well I'm not going
to bother you at work. But
yes, I do

14:27

Ok, then I sincerely apologize

for making you feel that way



Enter message



BEND

Nicole Greene

+1 805-345-6064

see what i

can do about it 😊

11:21

Friday, February 2, 2018

Hey, how's it going?

13:16

Good, you?

13:17

Pretty good. Just getting
ready for work

13:22

Do you even want to be
friends with me? Or are you
just using me until a better
girl comes along?

14:07

I'm at work right now, but
where did that come from?

14:16

Do you feel used?

Alright, well I'm not going
to bother you at work. But
yes, I do

14:27

Ok, then I sincerely apologize



Enter message



SEND

Nicole Greene

+1 805-345-6064

14:33

Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.

What is it that you're looking for?

14:34

14:40

I am now interested in friendship. Or if you'd rather avoid me I understand

No, I don't want to avoid you. I want friendship too

15:15

Thursday, February 8, 2018

Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and her baby?

14:38

14:40

No worries. My sister is great and very happy being a mom

That's good to hear. So I went to an OBGYN this morning thinking I would get some an-



Enter message



Nicole Greene

+1 805-345-6064



That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged 😞

14:46

Normal is good



Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems

15:38



Putting it bluntly, my hymen is already torn

15:40



If you want to try again, maybe we can use alcohol

19:50

Nicole, I want to remain just friends.

20:30



Benjamin, you've told me multiple times that you've slept with girls you considered "just friends"

20:31

Sunday, February 11, 2018



Enter message



Nicole Greene

+1 805-345-6064

considered just friends

20:31

Sunday, February 11, 2018



Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And



VIEW ALL



11:07

21:28

I think that's a pretty accurate assessment. I was a bit put off by the whole thing, but I am neither angry nor upset.

After reflecting on it, I don't think the way things were is good for you at this point in your life, and maybe not for me either. You are an awesome chick, and I respect you greatly. I think it's probably normal and



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



Sun, Feb 11, 2018 11:07

Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship.

And when you told me that night in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.

< Nicole Greene

+1 805-345-6064

During your vacation!

22:04



Hanging out with the woman
and some friends

22:06



Thursday, June 28, 2018

I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign



VIEW ALL



For the longest time, I felt so guilty, because once you realized we weren't going to be able to have sex, you started distancing yourself from me and I felt like a failure. Keep in mind, I'm 13 years younger than you and this was my first time in any sort of "relationship" like this.
I know I made



Enter message



SEND

 Nicole Greene

+1 805-345-6064



Thu, Jun 28, 2018 13:40

I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign blame, but I know for a fact that this situation has a lot to do with it. I felt ashamed that we weren't able to have sex because I felt like that was all you ever wanted and I was letting you down. I felt even more ashamed for developing feelings for you. I did everything I could to try to make this right, including going to a gynecologist, going on birth control, and encouraging you to get tested for STDs.

Exhibit 2

Exhibit 2

January Schedule**Benjamin Wood(425428)****Last Updated Feb 5, 2018 17:18:12 MST**

January Schedule									
Benjamin Wood(425428)									
MO	01	MCO	MO 01	ONLY ON SAT	BSE REPT: 1350L	Operates: Dec 30 Only			
TU	02	DEN	DEPL	ARRL	BLKT	TBLK	TDHD		
WE	03		1442	1540	0158	0310			
TH	04		1850	0156	0406			0604	
FR	05								(813)223-2222
SA	06	D3346BSFO							0330
SU	07	MCO							(952)854-8200
MO	08	N/L							0327
TU	09								(407)240-3725
WE	10								
TH	11	PAY							
FR	12	D3170HATL							
SA	13	SLC	DEPL	ARRL	BLKT	GRNT	OA		
SU	14	DEN	0649	0000	0257				
MO	15		0946	0649	0244			0244	
TU	16		1130	0244					0250
WE	17								
TH	18	D3206DLAS							
FR	19	CVG							
SA	20								
SU	21	PAY							
MO	22								
TU	23	PAY ↓ +							
WE	24								
TH	25	D3128ATL							
FR	26	DCA							
SA	27	DEN							
SU	28								
MO	29								
TU	30								
N/L : 09JAN									
Activity Start Date End Date End Time Credit									
N/L 09JAN 14:00 09JAN 22:09 1040									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End Time Credit									
PAY : 12JAN 06:00 12JAN 06:30 0235									
Activity Start Date End Date End									

SU 14 578 SLC-DEN 1134 1249 0115 0404
D-END: 1304L T.A.F.B.: 5240 TRIP RIG: 0023

Crew:

FO 425428 Wood, Benjamin

Base/Equip:	DEN/319	FO01	ONLY ON FRI	BSE REPT: 1003L	0404
DY DD DH C	FLTN0 DPS-ARS	DEPL	ARRL	BLKT	GRNT OA
FR 19 N	NTR DEN-DEN	1003	1003	0000	0155
FR 19 *	777 DEN-LAS	1158	1257	0159	0231
FR 19	1144 LAS-SAT	1528	2016	0248	0047
FR 19	1145 SAT-LAS	2103	2144	0241	
D-END: 2159L REPT: 0942L					
SA 20	1686 LAS-BNA	1025	1604	0339	0037
SA 20 *	1686 BNA-MCO	1641	1942	0201	0110
SA 20	1616 MCO-CVG	2052	2252	0200	0800
D-END: 2307L REPT: 1138L					
SU 21 649	CVG-DEN	1245	1355	0310	
SU 21 N	DUT DEN-DEN	1700	1907	0000	0310
D-END: 1907L T.A.F.B.: 5704					

Crew:

FO 425428 Wood, Benjamin

PAY : 21JAN	Activity	Start Date	Start Time	End Date	End Time	Credit
PAY	21JAN	20:00	23JAN	07:11	0339	
D3128 : 26JAN	MON FRI SAT					
Base/Equip:	DEN/319	CA01FO01				
DY DD DH C	FLTN0 DPS-ARS	DEPL	ARRL	BLKT	GRNT OA	Operates: Jan 8-Jan 27
FR 26	657 DEN-SFO	0744	0928	0244	0056	
FR 26	1532 SFO-ATL	1024	1742	0418		
D-END: 1757L REPT: 0730L						
SA 27 *	429 ATL-DEN	0808	0925	0317	0201	
SA 27	546 DEN-DCA	1126	1627	0301		
D-END: 1642L REPT: 0615L						
SU 28 543 DCA-DEN		0655	0928	0433		
D-END: 0943L T.A.F.B.: 5054						

Crew:

CA 403858 Smith, Tom FO 425428 Wood, Benjamin

February Schedule

Benjamin Wood(425428)

Last Updated Mar 6, 2018 21:05:48 MST

Schedule Options:

Crew: CA 406525 Nolta, Patrick FO 425428 Wood, Benjamin
Sick: 23FEB **Start:** 23FEB **End:** 25FEB **Time:** 10:53 **Credit:** 22:50
Sick: 23FEB **Start:** 23FEB **End:** 25FEB **Time:** 19:29 **Credit:** 19:29